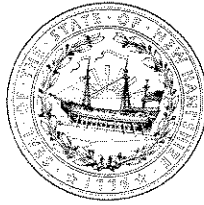


**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

September 30, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 655:14-a, a STATUTE related to filings by other candidates, most recently amended by Laws of 1991 Chapter 387 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 655:14-a, a STATUTE related to filings by other candidates, most recently amended by Laws of 1991 Chapter 387 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

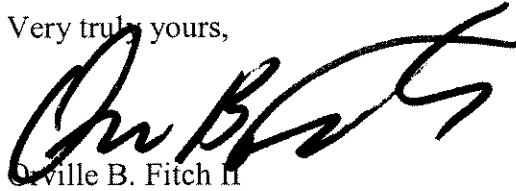
- a) Chapter 387 (1991) amending RSA 655:14-a is attached (Exhibit 655:14-a A).
- 1. Chapter 121 (1985) amending RSA 655:14-a is attached (Exhibit 655:14-a B)
- b) Chapter 531 (1981) enacting RSA 655:14-a is attached (Exhibit 655:14-a C).

- c) The changes made by amendments to RSA 655:14-a are as follows:
1. Chapter 387 (1991) replaces the phrase “...*appropriate official*...” with “...*secretary of state*...” in this statute
 2. Chapter 121 (1985) removes the phrase “...*excluding a candidate for president*...” from this statute
 2. Chapter 531 (1981) enacts RSA 655:14-a
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State’s legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.
- The legislature through a bicameral process passed law to create Chapter 387 (Exhibit 655:14-a A). The bill was signed into law (by the Governor) on July 2, 1991, pursuant to New Hampshire Constitution Part Second, Article 44.
- i) Adoption dates:
1. Chapter 387 (1991) adopted July 2, 1991
 2. Chapter 121 (1985) adopted May 20, 1985
 3. Chapter 531 (1981) adopted June 29, 1981
- j) Effective dates:
1. Chapter 387 (1991) effective July 2, 1991

2. Chapter 121 (1985) effective July 19, 1985
 3. Chapter 531 (1981) effective August 28, 1981
- k) The changes have been enforced.
- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
1. The purpose of the Chapter 387 (1991) change is to clarify to whom candidates must file their candidacy if not nominated by a state party
 2. The purpose of the Chapter 121 (1985) change is to include candidates for the office of president within the scope of this statute, who had been previously excluded from its provisions
 3. The purpose of Chapter 531 (1981) is to enact RSA 655:14-a, which moved the deadline for filing a declaration of intent to gain ballot access by petition to the date established as a deadline for filing for nomination for office by primary. The intended effect is to prevent a candidate who loses a primary race from subsequently gaining ballot access through petition.
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. 42 U.S.C. 1973(c). They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) RSA 655:14-a has never been precleared. This submission seeks preclearance of Chapter 387 (1991) and all previous changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 655:14-a D is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

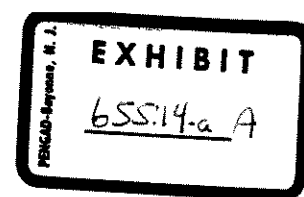
I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Duane B. Fitch II". The signature is stylized with a large, sweeping initial "D" and a long, horizontal stroke extending to the right.

Duane B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov

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Enrolled Bill Amendment

1991 SESSION

SENATE BILL NO. 195-FN (CHAPTER 387, LAWS OF 1991)

INTRODUCED BY: Sen. Bass of Dist. 11

REFERRED TO: Public Affairs

AN ACT relative to campaign expenditure limitations.

AMENDED ANALYSIS

This bill amends the law on campaign expenditure limitations.

The bill makes it apply to candidates who intend to have their names placed on the state general election ballot by means of primary petitions or nominating petitions. The current law only applies to candidates who are nominated in their party primary, and to write-in candidates.

The bill also:

- (1) Changes the membership on the advisory committee which monitors campaign financing statutes.
- (2) Requires a candidate who does not voluntarily accept expenditure limitations to pay both a filing fee and to file primary petitions.
- (3) Establishes minimum filing fee and primary petition requirements, regardless of whether a candidate voluntarily accepts expenditure limitations.
- (4) Adds new definitions for "expenditures" and "independent expenditures."
- (5) Limits the independent expenditures which a political committee may make to support or oppose candidates.
- (6) Adds new penalty provisions for violation of RSA 664.

EXPLANATION: Matter added appears in **bold italics**.

Matter removed appears in [brackets].

Matter which is repealed and reenacted or all new appears in regular type.

0641L

91-0531

10

Enrolled Bill Amendment

SB 195-FN

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand

nine hundred and ninety-one

AN ACT

relative to campaign expenditure limitations.

Be it Enacted by the Senate and House of Represen-

tatives in General Court convened:

1 Declaration of Purpose. Amend 1989, 212:1, IV to read as follows:

IV. Unimpeded access to the ballot is crucial to the realization of the constitutional guarantee of a representative form of government. The philosophical basis for democracy is the equal opportunity to participate. Greater participation increases effective representation, preserving the political power guaranteed to the people by the constitution. Expenditure limitations will allow greater ballot access, freer competition of ideas through individual speech and interaction, and more competitive campaigns. Voluntary compliance with expenditure limitations will help provide greater

ballot access, which by its nature is necessary to and a part of the election process. **In further recognition of the state's traditional role in regulating ballot access and candidate qualifications, the general court finds that these objectives can be accomplished by the voluntary procedure set forth herein.** The general court finds that these objectives can be accomplished by campaign expenditure limitations.

2 Filing Declaration of Intent with Secretary of State. Amend RSA 655:14-a to read as follows:

655:14-a Filing by Other Candidates. Every candidate for state or federal office who intends to have his name placed on the ballot for the state general election by means other than nomination

by party primary shall file a declaration of intent with the [appropriate official] **secretary of state** as provided in RSA 655:17-a or RSA 655:17-b during the same time period in which party candidates file a declaration under RSA 655:14.

3 Filing Fees for all Candidates. RSA 655:19 is repealed and reenacted to read as follows:

655:19 Filing Fees.

I. At the time of filing declarations of candidacy, each candidate for the following offices shall pay to the official with whom the declarations are filed the following filing fees, and shall file with the appropriate official the requisite number of primary petitions as provided in RSA 655:20 and 655:22, unless the candidate agrees to limit his expenditures in accordance with RSA 664:5-a. At the time of filing declarations of intent, each candidate for the following offices shall pay to the secretary of state the following filing fees, and the following

filing fees shall be paid in addition to the requisite number of nomination papers which must be submitted and filed. The filing fee paid under this section shall be in addition to the administrative assessment paid under RSA 655:19-c. The filing fees shall be as follows:

- (a) For governor, United States senator, and representative to Congress, \$5,000.
- (b) For executive councilor, \$500.
- (c) For county officer, \$100.
- (d) For state senator, \$100.
- (e) For state representative, \$25.

II. The fees paid to a town or city clerk by candidates for state representative shall be forwarded to the treasurer of the town or city and shall be for the use of the town or city. The fees paid to the secretary of state shall be deposited by him in the general fund.

4 Reference to Filing Declaration of Intent. Amend RSA 655:19-b to read as follows:

655:19-b Waiver of Filing Fee **and Primary Petitions.**

I. A candidate for any of the offices enumerated in RSA 655:19 who, pursuant to RSA 664:5-a, voluntarily accepts the expenditure limitation set forth in RSA 664:5-b shall have the filing fee **under RSA 655:19** either waived or refunded, **and shall have the requirement for filing petitions under RSA 655:20 waived**, as provided in paragraph II.

II. If a candidate files the affidavit as specified in RSA 664:5-a at the time he files the declaration of candidacy **or declaration of intent**, the filing fee **required under RSA 655:19 and the petitions required to be filed under RSA 655:20** shall be waived. If such

affidavit is filed within [10] 3 days following the filing of the declaration of candidacy, the appropriate officer shall refund the filing fee paid by the candidate as soon as practicable.

5 New Section; Administrative Assessment and Primary Petitions. Amend RSA 655 by inserting

[1985

1985]

CHAPTER 121

271

CHAPTER 121 (HB 72)

AN ACT RELATIVE TO THE SUBMISSION AND CERTIFICATION OF NOMINATION PAPERS AND THE FILING PERIOD FOR DECLARATIONS OF CANDIDACY.

Be it Enacted by the Senate and House of Representatives in General Court convened:

121:1 Changing Filing Period for Declaration of Candidacy.

Amend the introductory paragraph of RSA 655:14 (supp) as inserted by 1979, 436:1 as amended by striking out in line 7 the words "third Wednesday in June" and inserting in place thereof the following (Friday of the following week) so that said paragraph as amended shall read as follows:

The name of any person shall not be printed upon the ballot of any party for a primary unless he is a registered member of that party, he shall have met the age and domicile qualifications for the office he seeks at the time of the general election, he meets all the other qualifications at the time of filing, and he shall file with the appropriate official between the first Wednesday in June and the Friday of the following week a declaration of candidacy as provided in RSA 655:17, and

121:2 Certain Presidential Candidates; Filing Declaration of Intent. Amend RSA 655:14-a (supp) as inserted by 1981, 531:2 by striking out said section and inserting in place thereof the following:

655:14-a Filing by Other Candidates. Every candidate for state or federal office who intends to have his name placed on the ballot for the state general election by means other than nomination by party primary shall file a declaration of intent with the appropriate official as provided in RSA 655:17-a or RSA 655:17-b during the same time period in which party candidates file a declaration under RSA 655:14.

121:3 Filing Declaration of Intent by Certain Presidential Candidates. Amend RSA 655 by inserting after section 17-a the following new section:

655:17-b Declaration of Intent; Presidential and Vice-Presidential Candidates Who File Nomination Papers.

I. Declarations of intent for each candidate for president and vice-president who seeks nomination by nomination papers shall be in the form provided in paragraph II. Declarations of intent required by this section shall be filed with the secretary of state, signed by the candidate, and notarized by a notary public.

II. I, _____, declare that I am domiciled in the city (or town or unincorporated place) of _____, county of _____, state of _____, and am a qualified voter therein; that I intend to be a candidate for the office of _____ to be chosen at the general election to be held on the _____ day of _____; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

121:4 Filing Fee for Declarations of Intent. Amend RSA 655:19 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

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655:29; and if a candidate for United States senator or United States representative, unless he shall meet the qualifications for office under RSA 655:3 and 655:4.

II. No candidate who intends to run for any state or federal office in the state general election by means of nomination papers shall have his name placed on the ballot unless he files a declaration of intent, as provided in RSA 655:17-a or 655:17-b, within the filing deadline required by RSA 655:14-a.

III. No person who filed as a candidate in the state primary election shall be eligible to have his name placed on the ballot for the state general election by submitting nomination papers as provided in this subdivision.

121:9 Effective Date. This act shall take effect 60 days after its passage.

[Approved May 20, 1985.]

[Effective Date July 19, 1985.]

CHAPTER 122 (HB 91)

AN ACT RELATIVE TO COUNTING ABSENTEE BALLOTS.

Be it Enacted by the Senate and House of Representatives in General Court convened:

122:1 Changing Time for Processing Absentee Ballots. Amend RSA 659:49, I(b) (supp) as inserted by 1979, 436:1 by striking out in line 2 the time "3:00 p.m." and inserting in place thereof the following (11:00 a.m.) so that said subparagraph as amended shall read as follows:

(b) The time set for the commencement of processing absentee ballots shall not be earlier than 11:00 a.m. on election day; and

122:2 Effective Date. This act shall take effect 60 days after its passage.

[Approved May 20, 1985.]

[Effective Date July 19, 1985.]

CHAPTER 123 (HB 94)

AN ACT TO AUTHORIZE REGISTERED NURSES AND PHYSICIANS' ASSISTANTS
TO WITHDRAW BLOOD FOR PURPOSES OF BLOOD ALCOHOL CONTENT
TESTING AND PRESCRIBING ADMINISTRATIVE FORMS
FOR EVIDENTIARY PURPOSES.

Be it Enacted by the Senate and House of Representatives in General Court convened:

123:1 Additional Persons Authorized; Alcohol Tests. Amend RSA 265:85, I (supp) as inserted by 1981, 146:1 as amended by striking out said paragraph and inserting in place thereof the following:

[1981

1981]

CHAPTER 530

CHAPTER 530 (SB 291)

AN ACT ESTABLISHING AN INTERIM COMMITTEE TO STUDY CONTROLS
FOR OFF HIGHWAY RECREATIONAL VEHICLES AND
MAKING AN APPROPRIATION THEREFOR.

AL FACILITIES

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*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

530:1 Committee Established. There is hereby established a committee to study and examine controls and regulations presently in effect pertaining to off highway recreation vehicles in the state. The committee shall be composed of 3 members of the house, appointed by the speaker; 3 members of the senate, appointed by the president of the senate; the commissioner of the department of resources and economic development or his designee; the commissioner of safety or his designee; the executive director of fish and game or his designee; 2 members of the New Hampshire Snowmobile Association, appointed by the board of directors of the New Hampshire Snowmobile Association; a representative from the White Mountain national forest; a representative from the New Hampshire Timberland Owners Association; 2 members of the New England Trail Riders Association, to be appointed by the New Hampshire trustees of the New England Trail Riders Association; and 2 members at large appointed by the governor. The members shall choose a chairman. The committee shall make a careful study of the laws presently in effect in this state and propose legislation for any changes that they feel are needed. The committee shall have the authority to request and shall receive assistance from all state agencies and departments in conducting its study. The office of legislative services shall provide technical and legal services to the committee to the extent possible. The non-legislative members of the committee shall be reimbursed for actual expenses and are entitled to the same mileage as paid to state employees when performing duties in connection with work of the committee. The legislative members of the committee shall be entitled to legislative mileage when performing duties in connection with work of the committee. The committee shall make a report of its findings and recommendations to the 1983 session of the general court not later than December 15, 1982.

530:2 Appropriation. Notwithstanding any other provision of law to the contrary, the sum of \$10,000 shall be appropriated from the grants-in-aid fund in the department of resources and economic development for the purpose of section 1 of this act.

530:3 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 29, 1981.]

[Effective Date August 28, 1981.]

CHAPTER 531 (SB 295)

AN ACT PROHIBITING LOSERS IN PARTISAN PRIMARIES
FROM RUNNING BY FILING NOMINATION PAPERS.

*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

531:1 Declaration of Public Interest. It is hereby declared to be in the

public interest to prohibit any candidate who is defeated in a primary from running as a candidate in the following general election. It is further declared to be in the public interest to have this prohibition apply to candidates who run for either state or federal office excepting presidential elections. The general court therefore declares that the means for prohibiting candidates from running for public office in the general election following the primary in which they have been defeated is to require all candidates to file their declarations of intent or candidacy during the same period.

531:2 Filing by Other Candidates. Amend RSA 655 by inserting after section 14 the following new section:

655:14-a Filing by Other Candidates. Every candidate for state or federal office, excluding a candidate for president, who intends to have his name placed on the ballot for the state general election by means other than nomination by party primary, shall file a declaration of intent with the appropriate official as provided in RSA 655:17-a during the same time period in which party candidates file a declaration under RSA 655:14.

531:3 Declaration of Intent; Other Candidates. Amend RSA 655 by inserting after section 17 the following new section:

655:17-a Declaration of Intent; Other Candidates. Declarations of intent for nonparty or other candidates shall be in the following form and signed by the candidate:

I,, declare that I am domiciled in Ward, in the city (or town or unincorporated place) of, County of, state of New Hampshire, and am a qualified voter herein; that I intend to be a candidate for the office of to be chosen at the general election to be held on the day of; and I intend to file nomination papers by the deadline established under RSA 655:43. I further declare that, if qualified as a candidate for said office, I shall not withdraw; and that, if elected, I shall be qualified for and shall assume the duties of said office.

531:4 Withdrawal by Nonparty Candidates. Amend RSA 655:30 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

655:30 Withdrawal. When a party candidate has duly filed according to law for nomination at a primary election or when a nonparty or other candidate has duly filed according to law to have his nomination papers in by the day of said primary under RSA 655:17-a, no withdrawal or declination of the candidate shall be accepted by the secretary of state subsequent to the last dates for filing a declaration of candidacy, except as provided in RSA 655:31 and 655:34.

531:5 Filing Deadline Standardized. Amend RSA 655:43 (supp) as inserted by 1979, 436:1 by striking out said section and inserting in place thereof the following:

655:43 Filing Deadline.

I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the day of the primary. No nomination papers shall be accepted by the secretary of state unless the candidate will have met the age and domicile qualifications for the office he seeks at the time of the general election and meets all the other qualifications at the time of filing; and, if a candidate for the office of governor, councilor, state senator, or state represen-

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tative, unless he shall file with the nomination papers an affidavit of qualifications as provided for in RSA 655:28 and 655:29; and if a candidate for United States senator or United States representative, unless he shall meet the qualifications for office under RSA 655:3 and 655:4.

II. No candidate who intends to run for any state or federal office in the state general election, excluding a candidate for president, by means of nomination papers shall have his name placed on the ballot unless he files a declaration of intent, as provided in RSA 655:17-a, within the filing deadline required by RSA 655:14-a.

III. No person who filed as a candidate in the state primary election shall be eligible to have his name placed on the ballot for the state general election by submitting nomination papers as provided in this subdivision.

531:6 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application; and, to this end, the provisions of this act are severable.

531:7 Effective Date. This act shall take effect 60 days after its passage.

[Approved June 29, 1981.]

[Effective Date August 28, 1981.]

CHAPTER 532 (HB 933)

AN ACT AUTHORIZING THE FINANCING OF NONPROFIT NURSING HOMES.

Be it Enacted by the Senate and House of Representatives in General Court convened:

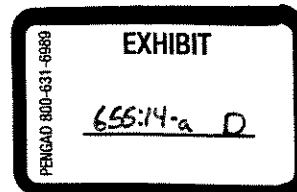
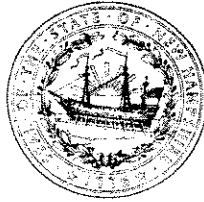
532:1 Declaration of Policy to Include Nursing Homes. Amend RSA 195-D:1 (supp) as inserted by 1969, 318:1 as amended by striking out said section and inserting in place thereof the following:

195-D:1 Declaration of Policy. It is declared to be the policy of the state that for the benefit of the people of the state, the increase of their commerce, welfare, and prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youths be given the fullest opportunity to learn and develop their intellectual and mental capacities; that it is essential that educational institutions within the state be provided with appropriate additional means to assist such youths in achieving the required levels of learning and development of their intellectual and mental capacities; that it is essential that hospitals and nursing homes within the state be provided with appropriate additional means to expand, enlarge and establish health care, hospital, nursing home and other related facilities; that it is essential that hospitals, nursing homes and institutions for higher education within the state be encouraged and assisted in reducing the costs of providing health care, nursing care or higher education; that it is essential that powers be conferred on the New Hampshire higher educational and health facilities authority as will assure the successful completion of projects to be initiated by the corporation or the refinancing of existing indebtedness as provided in this chapter so as to accomplish the purposes of this chapter all to the public benefit and good. It is further declared that the exercise by the corporation of the powers conferred on the corporation under this chapter will constitute the performance of an essential governmental function.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov